U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

March 17, 2017

The Honorable Analisa Torres
United States District Judge
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, New York 10007

Re: United States v. Morris E. Zukerman
16 Cr. 194 (AT)

Dear Judge Torres:

The United States respectfully submits this letter in connection with the sentencing of the defendant, Morris Zukerman, which is scheduled for March 21, 2017, at 11:00 a.m. Specifically, we write to address an issue relating to the filing of amended returns by the defendant, as required by his plea agreement. Second, we write to bring to the Court's attention the facts relating to a recent sentencing before Judge Alvin K. Hellerstein.

Pursuant to the defendant's plea agreement, he was required to file, and provide copies to the Government, amended returns for himself, certain family members, and a group of entities. We have received the amended returns, which addressed the falsities alleged in the indictment as well as certain additional inaccurate items claimed on the previously filed returns. We write to bring to the Court's attention that, above and beyond the liabilities alleged in the indictment, the amended returns filed by Zukerman reported over $17 million of income that previously had gone unreported to the Internal Revenue Service by Zukerman and a family member. The income consisted of dividends Zukerman received from one or more entities he controlled (over $13.5 million) and dividends (approximately $4 million) distributed to a family member by Zukerman from the family trust, of which Zukerman was the trustee.

With respect the sentencing, Judge Hellerstein imposed sentence on March 3, 2017 in *United States* v. *Joseph Ciccarella*, 16 Cr. 738 (AKH), where the defendant, the owner of a series of construction-related companies, had diverted corporate receipts over a three-year period in order to fund a separate set of companies he owned and to pay other personal expenses. As a result of the defendant's failure to report those diverted receipts as income, he was charged with a single tax evasion offense, based on approximately $285,000 in evaded federal income taxes for the 2009-11 tax years, which yielded an 18-24 month Guidelines range. In imposing an 18-month sentence on the 54-year-old defendant (and first-time offender), Judge Hellerstein explained as follows:

> I think the obligation to pay taxes is basic to our civilization. It makes it possible to have a lawful society. You read every day of crimes and violence in our country. But so much so in so many other countries where people can't get out of their house without fearing their lives. Where the path of getting food is strewn with threats and violence against them.
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> In order to have a society, you must have money. You must be able to pay what society requires. And its basic functions of policing and other functions of making sure there is a safety net under people. If people don't pay their taxes, they cheat each other. Your not paying taxes cheats me. If I don't pay my taxes, I cheat you. It's as bad, in many ways, as ripping off the delivery worker that the last fellow did. You're ripping off everybody else by not paying your share of taxes.
>
> So I look upon this and I think the guidelines have it right here. I think a year and a half, 18 months, is a just sentence. I impose it.
>
> I think you're going to have to reflect on what you did and the seriousness of what you did. You just can't make it good by paying the back tax. You've got to understand that when you do something bad, you get punished. It's got to be a lesson to everyone else. Everyone else is tempted to draw a line and cheat a little bit, get an extra edge.

Tr. at 22-23 (attached hereto as Exhibit A).

We respectfully submit that Judge Hellerstein's words concerning the need for general deterrence in criminal tax cases, and the need for a just punishment, are equally applicable in this case.

Respectfully submitted,

PREET BHARARA
United States Attorney

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